

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

TOMMY L. ADAMS,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:10-cv-102
)	
STERLING FINANCIAL, INC.,)	
EXPERIAN INFORMATION)	
SOLUTIONS, INC.; EQUIFAX)	
INFORMATION SERVICES LLC,)	
)	
)	
Defendants.)	

**DEFENDANT EQUIFAX INFORMATION SERVICES LLC's
ANSWER AND DEFENSES TO COMPLAINT**

Defendant, Equifax Information Services LLC, through its undersigned counsel, for its Answer to Plaintiff's Complaint states as follows:

PRELIMINARY STATEMENT

In submitting its Answer and Defenses to the Complaint, Equifax denies all allegations contained in the unnumbered paragraphs and headings in the Complaint, and specifically denies any allegations in the Complaint that have not been otherwise specifically addressed herein, including any legal conclusions to which a response may be required. In response to the specific enumerated paragraphs in the Complaint, Equifax responds as follows:

ANSWER

1. Equifax denies that Plaintiff can state a claim against Equifax under the Fair Credit Reporting Act, 15 U.S.C. §1681 *et seq.* or any other authority and denies that Plaintiff is entitled to the damages and other relief he seeks in this action as to Equifax.

2. To the extent that Plaintiffs can maintain this action, which Equifax denies, it admits that jurisdiction is proper in this Court. Equifax admits that it conducts business in this division. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2.

3. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3.

4. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4.

5. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6.

7. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7.

8. Equifax admits the allegations in Paragraph 8.

9. Equifax admits the allegations in Paragraph 9.

10. Equifax admits the allegations in Paragraph 10.

11. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.

12. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13.

14. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14.

15. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16.

17. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17.

18. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18.

19. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19.

20. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20.

21. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21.

22. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

23. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23.

24. Equifax admits that Plaintiff disputed the reporting of the Sterling account and included a description of the underlying transaction. Equifax is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 24.

25. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25.

26. Equifax denies the allegations in Paragraph 26 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26.

27. Equifax denies the allegations in Paragraph 27 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 27.

28. Equifax denies the allegations in Paragraph 28 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 28.

29. Equifax admits that it notified Sterling of Plaintiff's disputes of the account. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 29.

30. Equifax restates and incorporates its responses to paragraphs 1 – 29 as though fully set forth herein.

31. Equifax denies the allegations in Paragraph 31 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 31.

32. Equifax denies the allegations in Paragraph 32 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 32.

33. Equifax denies the allegations in Paragraph 33 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33.

34. Equifax denies the allegations in Paragraph 34 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 34.

35. Equifax restates and incorporates its responses to paragraphs 1 – 34 as though fully set forth herein.

36. Equifax denies the allegations in Paragraph 36 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 36.

37. Equifax denies the allegations in Paragraph 37 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 37.

38. Equifax denies the allegations in Paragraph 38 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 38.

39. Equifax denies the allegations in Paragraph 39 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 39.

40. Equifax restates and incorporates its responses to paragraphs 1 – 39 as though fully set forth herein.

41. Equifax denies the allegations in Paragraph 41 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 41.

42. Equifax denies the allegations in Paragraph 42 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 42.

43. Equifax denies the allegations in Paragraph 43 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 43.

44. Equifax denies the allegations in Paragraph 44 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 44.

45. Equifax restates and incorporates its responses to paragraphs 1 – 44 as though fully set forth herein.

46. Equifax denies the allegations in Paragraph 46 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 46.

47. Equifax denies the allegations in Paragraph 47 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 47.

48. Equifax denies the allegations in Paragraph 48 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 48.

49. Equifax denies the allegations in Paragraph 49 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 49.

50. Equifax restates and incorporates its responses to paragraphs 1 – 49 as though fully set forth herein.

51. Equifax denies the allegations in Paragraph 51 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 51.

52. Equifax denies the allegations in Paragraph 52 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 52.

53. Equifax denies the allegations in Paragraph 53 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 53.

54. Equifax denies the allegations in Paragraph 54 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 54.

55. Equifax restates and incorporates its responses to paragraphs 1 – 54 as though fully set forth herein.

56. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56.

57. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57.

58. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58.

59. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59.

60. Equifax restates and incorporates its responses to paragraphs 1 – 59 as though fully set forth herein.

61. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61.

62. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62.

63. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63.

64. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64.

65. Equifax restates and incorporates its responses to paragraphs 1 – 64 as though fully set forth herein.

66. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66.

67. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67.

68. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68.

69. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69.

70. Equifax denies that Plaintiff is entitled to any of the relief Plaintiff seeks in his Prayer For Relief.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiff, Equifax pleads the following defenses to the Complaint:

FIRST DEFENSE

Plaintiff's damages, if any, were not caused by Equifax, but by other persons or entities for whom or for which Equifax is not responsible.

SECOND DEFENSE

Plaintiff's damages, if any, are caused by his own acts or omissions, or the acts or omissions of third parties other than Equifax.

THIRD DEFENSE

At all times relevant herein, Equifax maintained reasonable procedures in its handling of Plaintiff's consumer credit file.

FOURTH DEFENSE

Equifax has complied with the Fair Credit Reporting Act in its handling of Plaintiff's credit file and disputes, and is entitled to each and every defense stated in the Act and any and all limitations of liability.

FIFTH DEFENSE

Plaintiff has not sustained any damages.

SIXTH DEFENSE

Plaintiff's damages, if any, are caused by his own acts or omissions, or the acts or omissions of third parties other than Equifax.

SEVENTH DEFENSE

Some or all of Plaintiff's claims against Equifax may be barred by the applicable statute of limitations.

EIGHTH DEFENSE

Plaintiff's claim for punitive damages is barred or limited by the provisions of 15 U.S.C. §1681n.

NINTH DEFENSE

Plaintiff's Complaint seeks the imposition of punitive damages. Equifax adopts by reference the defenses, criteria, limitations, standards and constitutional protections mandated or provided by the United States Supreme Court in the following cases: BMW v. Gore, 517 U.S. 559 (1996); Cooper Indus., Inc. v. Leatherman Tool Group, Inc., 532 U.S. 923 (2001) and State Farm v. Campbell, 538 U.S. 408 (2003).

TENTH DEFENSE

Plaintiff cannot establish the standard of willfulness under the Fair Credit Reporting Act as articulated by the Supreme Court in Safeco Insurance Co. of America v. Burr, 127 S. Ct. 2201 (2007).

ELEVENTH DEFENSE

Plaintiff failed to mitigate his damages, if any.

TWELFTH DEFENSE

Equifax denies each and every averment of Plaintiff's Complaint not specifically admitted in this Answer.

THIRTEENTH DEFENSE

Equifax reserves the right to plead additional defenses that it learns of through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations contained in Plaintiff's Complaint, Equifax prays that:

- (1) Plaintiff's Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiffs;
- (2) That Equifax be dismissed as a party to this action;
- (3) That this lawsuit be deemed frivolous and Equifax recover from plaintiffs its expenses of litigation, including but not limited to attorneys' fees pursuant to 15 U.S.C. § 1681n(c) and 15 U.S.C. § 1681o(b); and
- (4) That Equifax recover such other and additional relief, as the Court deems just and appropriate.

Respectfully submitted this 21st day of September, 2010

/s/

John W. Montgomery, Jr.
Virginia State Bar No. 37149
Counsel for Equifax Information Services, LLC
Montgomery & Simpson, LLLP
2116 Dabney Road, Suite A-1
Richmond, VA 23230
Telephone (804) 355-8744
Facsimile (804) 355-8748
Email: jmontgomery@jwm-law.com

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of September, 2010, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Leonard A. Bennett
Gary L. Abbott
Robin Abbott
Consumer Litigation Associates, P.C.
12515 Warwick Boulevard
Suite 201
Newport News, Virginia 23606

/s/

John W. Montgomery, Jr.
Virginia State Bar No. 37149
Counsel for Equifax Information Services, LLC
Montgomery & Simpson, LLLP
2116 Dabney Road, Suite A-1
Richmond, VA 23230
Telephone (804) 355-8744
Facsimile (804) 355-8748
Email: jmontgomery@jwm-law.com